

MINUTES
BOARD OF SUPERVISORS
COUNTY OF YORK

Regular Meeting
June 20, 2000

7:00 p.m.

Meeting Convened. A Regular Meeting of the York County Board of Supervisors was called to order at 7:01 p.m., Tuesday, June 20, 2000, in the Board Room, York Hall, by Chairman Walter C. Zaremba.

Attendance. The following members of the Board of Supervisors were present: Walter C. Zaremba, Sheila S. Noll, Donald E. Wiggins, James S. Burgett, and Melanie L. Rapp.

Also in attendance were Daniel M. Stuck, County Administrator; and James E. Barnett, County Attorney.

Invocation. Reverend David Paulden, New Bethel Baptist Church, gave the Invocation.

Pledge of Allegiance to the Flag of the United States of America. Chairman Zaremba led the Pledge of Allegiance.

HIGHWAY MATTERS

Mr. Quintin Elliott, Resident Engineer, Virginia Department of Transportation (VDOT), appeared to discuss highway matters of interest to the Board of Supervisors and reported he did not have any new items to discuss.

Mr. Wiggins thanked VDOT for everything it had done to improve the drainage conditions in the County and for providing a representative to appear at the upcoming Drainage Committee meeting to be held at 7:00 p.m. on June 22.

Miss Rapp reminded Mr. Elliott about a written response to the District Administrator concerning money that she wanted to petition the state for to use for repaving. She reported she was still awaiting VDOT's response to her request that the ditch on Tinnette Lane be cleaned out.

Mr. Elliott stated VDOT was in the process of finishing up other drainage matters and would move on to that area as soon as possible.

Miss Rapp reported water was still standing in the ditches on Cary's Chapel Road. She mentioned that a route marker sign had fallen down at the corner of Magruder and Victory Boulevards. She asked if the paving schedule was on time and stated more streets needed repaving.

Mr. Elliott stated the paving schedule was up to date, but VDOT would evaluate and prioritize any new paving suggestions received.

Mr. Burgett expressed his appreciation with VDOT for correcting some of the drainage problems and with the repaving it had accomplished.

Mr. Zaremba thanked VDOT for the quick response in correcting potholes at New Quarter Park. He mentioned that the speed limit sign was too far off the road near Hubbard Lane and Lakeshead Drive, and he asked that it be moved to Lakeshead and West Queens Lake. He also stated he felt a reduction of the speed limit should be considered. He asked who was responsible for the area where Skimino Road ends at the Camp Peary turnaround.

Mr. Elliott answered that a request had already been sent in to lower the speed limit on Lakeshead Drive. He noted the turnaround at Camp Peary was not an official turnaround, and no one was responsible for it. He explained that the County had purchased some stone to help smooth out some of the ruts that people had created; but to resolve it permanently, a project would have to be considered at that location.

Mr. Stuck stated the County owned a triangular parcel of land at that location, and the County had put some stone down, but the appearance wasn't good. He stated staff had repaired the area, and he felt the Board wouldn't want to spend the County's limited road dollars to work on a turnaround that served very few people.

Mr. Zaremba mentioned a letter (along with pictures) from a resident of Marlbanks Farms who was notified by VDOT that his street would be paved on a certain date, but no one showed up to perform the work. He stated the road was badly in need of paving, and he asked Mr. Elliott to take a look at it.

Mr. Elliott indicated he would look into the matter.

COUNTY ATTORNEY REPORTS AND REQUESTS

Mr. Barnett apprised the Board of a hearing the County recently won regarding a condemnation case. He stated the question in the case was whether or not the County had made a bona fide, good faith offer for the property, which was necessary for any condemnation proceeding. He stated the trial would be held on July 26, 2000, and the remaining question to be decided would be the proper amount of compensation for the parcel.

COUNTY ADMINISTRATOR REPORTS AND REQUESTS

Mr. Stuck reminded the Board members of the retreat scheduled for 8:00 a.m. on June 24, 2000, with the Industrial Development Authority to be held in the East Room at York Hall, as well as the Work Session scheduled for June 27, 2000, at 6:30 p.m. He stated tonight's meeting was the last regular meeting of the fiscal year; and based on current receipts and expenditures, the County was in good fiscal condition, perhaps slightly better than last year. He then gave a brief listing of the significant accomplishments of the Board during the fiscal year.

CITIZENS COMMENT PERIOD

Mr. Jack H. Thompson, 113 Wind Forest Lane, president of Winder's Pond Home's Association, stated the Association felt it was not in the best interest of the community to allow the expansion of Peninsula Hardwood Mulch. He was concerned with the environmental conditions, noise from the trucks and equipment, and possible nauseous odors.

Mrs. Pam Pouchot, 103 Kimberly Court, spoke regarding an article that appeared in the Virginia Gazette in which Board members endorsed a candidate for the Republican Congressional Pri-

mary. She expressed her shock and outrage that four members of the Board of Supervisors signed the letter, and she stated she was not aware a vote had been taken to endorse a specific candidate. She felt the Board acted in an arrogant manner by deciding to endorse a candidate on behalf of the citizens, and she felt the Board owed the public an apology.

Mr. Andrew G. Swanson, 259 Nottingham Road, appeared to speak against the proposed President's Park. He felt the proposed park wasn't something the County needed, especially in the Williamsburg area. He described how the developer could use the heads in an educational manner, and he concurred with Mrs. Noll's comment in the Virginia Gazette that each person has personal property rights; but he felt the developer had exceeded those rights by trying to get the project underway before following proper zoning procedures. He felt the developer was encouraged by the Industrial Development Authority (IDA), and he suggested the Board rein in the IDA in an effort to change its criteria which was to produce tax revenues for the County.

MATTERS PRESENTED BY THE BOARD

Mr. Wiggins announced that the first meeting of the Drainage Committee would be held on June 22, 2000, at 7:00 p.m. in the East Room of York Hall. He reported that Seaford Elementary School and Dare Elementary School would soon have lighting installed and that construction on the new gymnasium at Seaford would begin this summer.

Miss Rapp thanked the Electoral Board, Registrar's Office, and the citizens who worked during the recent election. She reported on the Sherwood Forest Homeowner's Meeting and mentioned the members were going to initiate a Crime Watch Program in that neighborhood. She also congratulated the graduating Classes of 2000.

Mrs. Noll reported on the NASA Aeronautics Support Team and the appropriation of funding this year. The President's proposal in Fiscal Year 2001 for NASA includes an additional \$79 million for the Langley Research Center, and she stated the number one appropriation bill contained at least the amount the President has proposed for NASA. Mrs. Noll noted that another objective was to influence the development of the 2002 NASA budget in order to maintain the budget gains in the FY01 budget, as well as influencing the next administration's vision for NASA. Another goal was to build national support by involving organizations and communities across the nation to understand how important the aeronautics industry was to the Nation's economy.

Mr. Burgett mentioned the passing of County resident Dan Shellabarger who was active in the community, including the Watermen's Museum and the Celebrate Yorktown festivals. He reported that an article appeared in the Daily Press regarding a fourth grade student who helped save his father when his father had a stroke. He noted that a safety course taught in the schools by Annetta Norwood from the Department of Fire and Life Safety had helped the young man know how to respond to the emergency situation.

Chairman Zaremba apprised Mr. Stuck of the "Weight Loss" signs that appeared on several telephone polls around the Hubbard Lane area and asked that they be removed. He asked Mr. Mark Carter for a status review in the near future on Mr. Waltrip's borrow pit and if there was any progress relative to the residence that was being built coincident to the lake. He also asked Mrs. Anne Smith to provide the Board soon with an update on New Quarter Park. He then asked Mr. Stuck for recommendations regarding his conducting a town hall meeting. He indicated the meeting would be held for all the citizens of Yorktown and the County, and subjects such as parking facilities, progress at Water Street, and President's Park would be discussed. He noted he wanted to give the citizens an opportunity to receive updates on those projects. Mr. Zaremba

June 20, 2000

then spoke on the President's Park project, stating the County staff had done its analysis relative to land use and recommended that the park be allowed to go forward. This past week that issue went before the Planning Commission, and it recommended to the Board of Supervisors that the developer be allowed to move forward. The Board would soon hold a hearing on a Special Use Permit application because intended development of the park was inconsistent with the present zoning of the site. Mr. Zaremba noted that the Board would do what it could to make sure that it has full input from the citizens to approve or disapprove.

CONSENT CALENDAR

Mr. Wiggins asked that Item Nos. 7, 10, and 13 be removed from the Consent Calendar.

Mrs. Noll then moved that the Consent Calendar be approved as amended, Item Nos. 8, 9, 11, 12, 14, 15, and 16, respectively.

On roll call the vote was:

Yea: (5) Noll, Wiggins, Burgett, Rapp, Zaremba
Nay: (0)

Item No. 8. TRANSPORTATION AGREEMENT/CDR FIRST STEPS PROGRAM: Resolution R00-78

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO EXECUTE AN AGREEMENT WITH THE YORK COUNTY SCHOOL BOARD FOR TRANSPORTATION OF CHILDREN PARTICIPATING IN THE FIRST STEPS PROGRAM

WHEREAS, the York County Board of Supervisors has a support agreement with the Child Development Resources, Inc., (CDR) for operation of the "First Steps" program, an early childhood educational and developmental program that is implemented at the Griffin-Yeates Center for children between the ages of 6 weeks and 5 years; and

WHEREAS, according to the terms of the support agreement and for the safety of the children involved, the Board has agreed to arrange with the York County School Board to provide bus transportation for enrolled children between home and the Griffin-Yeates Center for children; and

WHEREAS, costs for such transportation are the responsibility of CDR, Inc., and do not represent additional financial support;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 20th day of June, 2000, that the County Administrator be, and he is hereby, authorized to execute for and on behalf of the Board an agreement with the York County School Board, substantially in the same form transmitted to the Board by report of the County Administrator dated May 23, 2000, including necessary amendments thereto, for the provision of transportation of children participating in the CDR, Inc., First Steps program; provided that such agreement and all such amendments shall be approved as to form by the County Attorney.

Item No. 9. CHILD DEVELOPMENT RESOURCES, INC., SUPPORT AGREEMENT: Resolution R00-80.

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO EXECUTE A SUPPORT AGREEMENT WITH CHILD DEVELOPMENT RESOURCES, INC., A NONPROFIT VIRGINIA CORPORATION, FOR THE OPERATION OF EARLY CHILDHOOD CARE AND DEVELOPMENTAL SERVICE IN THE GRIFFIN-YEATES CENTER LOCATED ON GOVERNMENT ROAD

WHEREAS, it is in the public interest to continue to make available an early childhood educational experience and positive learning opportunities on behalf of economically disadvantaged and other qualified County citizens; and

WHEREAS, Child Development Resources, Inc., a nonprofit Virginia corporation, has provided such services by operation of a program, called First Steps;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 20th day of June, 2000, that the County Administrator be, and he is hereby, authorized to execute a Support Agreement approved as to form by the County Attorney with the Child Development Resources, Inc., for the operation of the First Steps program for the period July 1, 2000 until July 1, 2001.

Item No. 11. SERIOUS HABITUAL OFFENDERS COMPREHENSIVE ACTION PROGRAM (SHOCAP): Resolution R00-103

A RESOLUTION TO REQUEST A SERIOUS AND HABITUAL OFFENDER COMPREHENSIVE ACTION PROGRAM (SHOCAP) DESIGNATION FOR YORK COUNTY

WHEREAS, various provisions of the Code of Virginia are intended to protect the privacy and the confidentiality of individual youth charged with juvenile offenses; and

WHEREAS, such well-intentioned provisions also serve to prohibit the sharing of information among agencies responsible for the care and treatment of such offenders, thereby making comprehensive and well-integrated service plans virtually impossible and also creating barriers to the effective management of matters of public safety; and

WHEREAS, Section 16.1 of the Code of Virginia, (1950) as amended, offers local governments an opportunity to participate in the Serious and Habitual Offender Comprehensive Action Program (SHOCAP) upon request of the governing body and with the establishment of a SHOCAP Committee; and

WHEREAS, such a designation for York County would make it possible to share information regarding specific youth, thereby increasing the effectiveness of interagency collaboration in service delivery and treatment and would not have a fiscal impact nor carry excessive administrative burdens; and

WHEREAS, the Juvenile Offender Coordinating Council currently operational under the aegis of the York County Community Services Director could be readily expanded and serve as the SHOCAP Council;

June 20, 2000

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 20th day of June, 2000, that it is the desire of the Board to initiate a Serious and Habitual Offender Program for York County and the County Administrator is hereby directed to request such a designation from the Virginia Department of Criminal Justice Services as provided by Code of Virginia.

BE IT FURTHER RESOLVED, that the Board of Supervisors hereby creates a SHOCAP Council which shall include the current members of the Juvenile Offender Coordinating Council and those County divisions and public agencies reflected in Exhibit #2 of the County Administrator's June 5, 2000, report to the Board of Supervisors on this subject, and such other agencies as the members of the Council by majority vote may deem appropriate.

Item No. 12. STREET ACCEPTANCE: Resolution R00-93

A RESOLUTION REQUESTING THE VIRGINIA DEPARTMENT OF
TRANSPORTATION TO INCLUDE STREETS IN RUNNING MAN, SEC-
TIONS FIVE-C AND SEVEN-A, INTO THE STATE SECONDARY SYS-
TEM OF HIGHWAYS

WHEREAS, the following roads, which are shown on plats recorded in the Clerk's Office of the Circuit Court of York County, have been constructed to standards equal to the Virginia Department of Transportation's Subdivision Street Requirements as a requisite for acceptance for maintenance as part of the Secondary System of Highways; and

WHEREAS, VDOT's Resident Engineer for York County has inspected these roads and found them acceptable for maintenance; and

WHEREAS, the York County Board of Supervisors does hereby guarantee unencumbered rights of way equal in width to that shown below plus the necessary easements for cuts, fills, and drainage for these roads;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors, this the 20th day of June, 2000, that the Virginia Department of Transportation be, and it hereby is, requested to add and maintain the following roads as part of the Secondary System of Highways, pursuant to Section 33.1-229, Code of Virginia, 1950 amended, and the regulatory requirements of VDOT:

Subdivision: Running Man, Sections Five-C and Seven-A
Street: Coinjock Run (Route 1781)
From: Running Man Trail (Route 606)
To: 0.39 mile south to cul-de-sac
Guaranteed Width for Right-of-Way: 50'
Length: 0.39 mile (2064 feet)

Street: Jotank Turn (Route 1782)
From: Coinjock Run (Route 1781)
To: 0.07 mile east to cul-de-sac
Guaranteed Width for Right-of-Way: 50'
Distance: 0.07 mile (348 feet)

The streets listed above are shown on plats of record entitled "Subdivision Plat of Running Man, Section Five-C" dated September 10, 1992, prepared by Davis & Associates, and recorded on October 29, 1992, in Plat Book 11, Page 542; and "Subdivision Plat of Running Man, Section Seven-A" dated October 1, 1998, prepared by Davis & Associates, P.C., and recorded on January 22, 1999, in Plat Book 12, Pages 662-664. These plats were recorded in the Clerk's Office of the Circuit Court of York County.

BE IT FURTHER RESOLVED that copies of this resolution be forwarded to the developer of Running Man, Sections Seven-A and Five-C, and to the Resident Engineer of the Virginia Department of Transportation.

Item No. 14. APPROPRIATION FOR A MIDDLE SCHOOL DARE OFFICER: Resolution R00-98

A RESOLUTION TO APPROPRIATE ADDITIONAL FUNDING FROM THE
YORK COUNTY SCHOOL DIVISION FOR THE FUNDING OF A MIDDLE
SCHOOL DARE OFFICER IN THE SHERIFF'S OFFICE

WHEREAS, in FY2000, the York County School Division had approved funding of \$30,000 to support a pilot middle school DARE program to include a part-time position, miscellaneous supplies and equipment; and

WHEREAS, for FY2001, the School Division has approved funding of \$38,769 to create a full-time position in the Sheriff's Office for this program; and

WHEREAS, the FY2001 County's budget does not include the additional funds from the School Division, totaling \$8,769, for the support of a full-time position for the middle school DARE program;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 20th day of June, 2000, that additional funding from the School Division of \$8,769 be, and hereby is, appropriated in the General Fund for the support of a full-time position for the middle school DARE program in the Sheriff's Office.

Item No. 15. APPROPRIATION FOR THE COMMONWEALTH'S ATTORNEY: Resolution R00-100

A RESOLUTION TO APPROPRIATE ADDITIONAL FUNDING FROM THE
STATE COMPENSATION BOARD FOR ADDITIONAL PERSONNEL AND
EQUIPMENT FOR THE COMMONWEALTH'S ATTORNEY

WHEREAS, the State Compensation Board has notified the County that for Fiscal Year 2001 funding for the Commonwealth's Attorney's Office will be increased by \$57,109 to allow the hiring of an Attorney I and \$10,240 for the purchase of additional equipment; and

WHEREAS, The Commonwealth's Attorney has proposed to add a full-time Compensation Board funded attorney, eliminate a County funded half-time attorney's position and use the savings from the elimination of the County funded position to add a full-time support position; and

WHEREAS, the combination of the \$57,109 to be received from the Compensation Board and the savings from the elimination of the County funded half-time attorney's position will

June 20, 2000

more than offset the costs of hiring the full-time attorney and a support position resulting in a reduction of approximately \$5,000 in the County funding of the Commonwealth's Attorney's Office; and

WHEREAS, it is proposed that the equipment funding, totaling \$10,240, be used for computers, printers, and a shredder;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 20th day of June, 2000, that \$62,349 be, and hereby is, appropriated in the General Fund for additional personnel and equipment for the Commonwealth's Attorney.

Item No. 16. APPROPRIATION FOR THE SHERIFF'S OFFICE: Resolution R00-97

A RESOLUTION TO APPROPRIATE ADDITIONAL FUNDING FROM THE
STATE COMPENSATION BOARD FOR THE PURPOSE OF PURCHAS-
ING EQUIPMENT FOR THE SHERIFF'S OFFICE

WHEREAS, the State Compensation Board has allocated an additional \$9,887 of funding for equipment for the Sheriff's office; and

WHEREAS, the Sheriff has proposed to use the funding to upgrade computer equipment to implement a computerized records management system;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 20th day of June, 2000, that the \$9,887 be, and hereby is, appropriated in the General Fund for the purchase of equipment for the Sheriff's Office.

Item No. 7. APPROVAL OF MINUTES (Removed from the Consent Calendar)

Mr. Wiggins noted an error in the May 16, 2000 minutes under Highway Matters that referred to Martha Avenue. The correct name of the street was Moss Avenue and he asked that a correction be made to reflect that change.

Mr. Burgett then moved the minutes of the following meetings of the Board of Supervisors be approved as amended:

May 16, 2000, Regular Meeting
May 23, 2000, Adjourned Meeting

On roll call the vote was:

Yea (5) Wiggins, Burgett, Rapp, Noll, Zaremba
Nay (0)

Item No. 10. APPROVAL OF ARTS FUNDING FOR FY2001: Resolution R00-88 (Removed from Consent Calendar)

Mr. Wiggins noted he was concerned about the funding of the Arts Commission and asked Mrs. Smith for some clarification and explanation concerning the Commission's function.

Mrs. Anne Smith, Director of Community Services, explained it was a organization that spent a great deal of time pouring over background information, program information, and grant component request information. The Commission put a great deal of study into this effort on behalf of the Board. If the Board would like greater detail when the information came from the Commission, she stated she would be happy to provide it. She then introduced Ms. Molly Nealer to further explain the organization.

Ms. Nealer explained that there were five members on the York County Arts Commission and each member has a set of the requesting organizations assigned to them, and they try to attend at least one of each of their functions. Input is derived from each of the Commission members on an amount to be granted to each of the organizations, if any.

Discussion followed on the functions of the Art Commission.

Mr. Wiggins then moved the adoption of Resolution R00-88 that reads:

A RESOLUTION TO APPROVE FY2001 COUNTY AND STATE FUND-
ING FOR LOCAL ARTS ORGANIZATIONS

WHEREAS, the Board of Supervisors appropriated \$51,600 in support of local cultural arts organizations in the FY2001 budget and the County is expected to receive an estimated \$5,000 grant from the Virginia Commission for the Arts to supplement the County's appropriations for the arts; and

WHEREAS, the York County Arts Commission was appointed by the Board of Supervisors to review funding requests from cultural arts organizations and to make recommendations to the Board concerning the distribution of budget appropriations to the arts; and

WHEREAS, the Arts Commission has completed its review of the funding requests for FY2001 and has determined the recommended funding allocation for each organization given the total available arts-related funds contained in the approved FY2001 York County Budget; and

WHEREAS, upon receipt of any grant funding from the Virginia Commission for the Arts, an equal allocation of said grant will be made to the Fifes and Drums of York Town and the York-town Arts Foundation;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 20th day of June, 2000, that the determination made by the York County Arts Commission be, and they hereby are, approved and that the following organizations shall receive grants under the York County Arts Commission Grant Program from the funds budgeted by the Board of Supervisors and received from the Commonwealth, in the following amounts and to the extent that sufficient funding is received from the Commonwealth to allow such awards to be made:

Capriole	\$ 1,700
Celebrate Yorktown Committee	\$ 1,200
Celebrate Yorktown Committee	\$ 1,100
Colonial Services Board	\$ 800
Cultural Alliance	\$ 400
Fifes & Drums of York Town	\$ 8,550
Institute For Dance	\$ 500
JCC/Williamsburg Parks & Recreation	\$ 700

June 20, 2000

Jamestown/Yorktown Foundation	\$ 5,000
Peninsula Community Theatre	\$ 700
Publick Times Chorus	\$ 1,800
Senior Center of York	\$ 200
Theatre IV	\$ 2,400
Thomas Nelson Players	\$ 500
Virginia Choral Society	\$ 700
Virginia Opera	\$ 6,200
Virginia Shakespeare Festival	\$ 3,000
Virginia Symphony	\$ 1,500
Watermen's Museum	\$ 3,400
WHRO	\$ 1,000
Williamsburg Choral Guild	\$ 500
Williamsburg Symphonia	\$ 1,500
Williamsburg Youth Orchestra	\$ 1,500
Williamsburg Players	\$ 700
York County Music Assoc. Inc.	\$ 600
York River Orchestra	\$ 900
Yorktown Arts Foundation	\$ 6,950
Young Audiences	\$ 2,600

On roll call the vote was:

Yea: (5) Burgett, Rapp, Noll, Wiggins, Zaremba
Nay: (0)

Item No. 13. PROCUREMENT OF VACUUM VALVES: Resolution R00-94 (Removed from the Consent Calendar)

Mr. Wiggins asked if this was the same vacuum valve that the last Board approved after there was some question as to whether or not the procurement of the valves was proper.

Mr. Stuck explained why this particular brand of valve was specified in the sewer specifications. The County hired an outside engineering firm to evaluate the valves and gave all the vendors an opportunity to submit and have their valves evaluated with the same specifications, after which time the Board again approved a five-year period in which it would operate with Airvac. The sole source procurement will be reevaluated in five years.

Chairman Zaremba noted the staff was installing the valves and asked if that was saving money.

Mr. John Hudgins, Director of Environmental and Development Services, stated they were saving probably \$100 to \$150 per valve.

Mr. Wiggins then moved the adoption of Resolution R00-94 that reads:

A RESOLUTION TO AUTHORIZE THE PROCUREMENT of 100 VACUUM INTERFACE VALVES IN THE AMOUNT OF \$87,500 IN CONJUNCTION WITH THE CALTHROP NECK ROAD WATER AND SANITARY SEWER PROJECT

WHEREAS, it is the policy of the Board of Supervisors that all procurements of goods and services by the County involving the expenditure of \$30,000 or more be submitted to the Board for its review and approval; and

WHEREAS, the County Administrator has determined that the following procurement is necessary and desirable, and that applicable laws, ordinances, and regulations have been complied with; and

WHEREAS, in accordance with the County's Sanitary Sewer Standards and Specifications AIRVAC is the sole manufacturing supplier for vacuum interface valves approved for installation in the County's vacuum sewer system;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 20th day of June, 2000, that the County Administrator be, and hereby is, authorized to conclude the procurement of the following:

<u>Description</u>	<u>Amount</u>
100 AIRVAC Interface Valves	\$87,500

On roll call the vote was:

Yea: (5) Rapp, Noll, Wiggins, Burgett, Zaremba
Nay: (0)

PUBLIC HEARINGS

ADMINISTRATIVE TAX REFUNDS

Mr. Barnett briefly explained the purpose of proposed Ordinance No. 00-7 to amend the York County Code to provide that no interest shall be paid on refunds of erroneously assessed taxes if the refund was \$10.00 or less, or if the refund was due to personal property proration.

Chairman Zaremba called to order a public hearing on proposed Ordinance No. 00-7 that was duly advertised as required by law and is entitled:

AN ORDINANCE TO AMEND SECTION 21-7.3, ADMINISTRATIVE REFUNDS, YORK COUNTY CODE, TO PROVIDE THAT NO INTEREST SHALL BE PAID ON REFUNDS OF ERRONEOUSLY ASSESSED TAXES IF THE REFUND IS \$10.00 OR LESS, OR IF THE REFUND IS DUE TO PERSONAL PROPERTY TAX PRORATION

There being no one present who wished to speak concerning the subject ordinance, Chairman Zaremba closed the public hearing.

Mr. Wiggins indicated he felt that \$10 was a lot of money to some people; and if the County felt it was not enough to send a check for what they've overpaid, he felt the County should give them the refund in terms of a credit for the following year. He stated he did not see the logic in not giving the overpayment back to them.

Mr. Stuck stated the ordinance would stop the necessity for the Treasurer to calculate interest on a refund that was less than \$10; the refund would still be paid.

Chairman Zaremba asked for the number of people that fell into that category.

Mrs. Ann Thomas, Commissioner of the Revenue, stated she did not have any statistics on the number of refunds amounting to under \$10, but there weren't very many. Each request has to go before the County Attorney before an erroneous assessment was refunded.

Discussion followed concerning the proration of personal property taxes.

Mrs. Noll moved the adoption of proposed Ordinance 00-7 that reads:

AN ORDINANCE TO AMEND SECTION 21-7.3, ADMINISTRATIVE REFUNDS, YORK COUNTY CODE, TO PROVIDE THAT NO INTEREST SHALL BE PAID ON REFUNDS OF ERRONEOUSLY ASSESSED TAXES IF THE REFUND IS \$10.00 OR LESS, OR IF THE REFUND IS DUE TO PERSONAL PROPERTY TAX PRORATION

BE IT ORDAINED by the York County Board of Supervisors, this 20th day of June, 2000, that section 21-7.3, Administrative refunds, York County Code, be and it is hereby amended to read and provide as follows:

Sec. 21-7.3. Administrative refunds.

Upon application by a taxpayer, if the commissioner of revenue is satisfied that he or she has erroneously assessed any tax, and the assessment has been paid, the treasurer may, pursuant to the provisions of section 58.1-3981, Code of Virginia, refund such portion of the tax, together with any interest and penalty thereon, erroneously assessed, up to \$2,500, with the consent of and upon the written certification of the commissioner of revenue and county attorney that such tax was erroneously assessed. Such refunds shall be subject to such limitations as may otherwise be established by law. Interest shall be paid on such refunds as required by section 58.1-3981, Code of Virginia except that no interest shall be paid on any refund if the amount of the refund is ten dollars (\$10.00) or less, or if the refund is the result of proration pursuant to section 21-7.4 of this chapter. No refund in excess of \$2,500 shall be issued without the approval of the Board of Supervisors. The treasurer shall deduct from any such refund any amount owed by the applicant to the County, and shall apply such amount to payment of the tax owed.

BE IT FURTHER ORDAINED that this ordinance shall take effect July 1, 2000.

On roll call the vote was:

Yea: (5) Noll, Wiggins, Burgett, Rapp, Zaremba
Nay: (0)

YORK COUNTY CODE AMENDMENT: DISCHARGE OF FIREARMS

Mr. Barnett explained the proposed Ordinance No. 00-8 to amend the York County Code to allow the killing of deer on parcels of at least five acres that was zoned for agricultural use with an appropriate permit from the Virginia Department of Game and Inland Fisheries.

Chairman Zaremba called to order a public hearing on proposed Ordinance No. 00-8 that was duly advertised as required by law and is entitled:

AN ORDINANCE TO AMEND SECTION 16-7 (b) YORK COUNTY CODE,
TO ALLOW THE KILLING OF DEER ON PARCELS OF AT LEAST FIVE
ACRES AND ZONED FOR AGRICULTURAL USE WITH AN APPROPRI-
ATE PERMIT FROM THE VIRGINIA DEPARTMENT OF GAME AND IN-
LAND FISHERIES

Mrs. Pam Pouchot, 103 Kimberly Court, stated that 5 acres was not a great deal of area when talking about how far a bullet would travel, and she spoke in opposition to adoption of the proposed ordinance. She questioned the need for discharging of firearms in populated areas, and she asked the Board to vote against the ordinance.

There being no one else present who wished to speak concerning the subject ordinance, Chairman Zaremba closed the public hearing.

Mrs. Noll agreed that the land should be vacant and that there shouldn't be a dwelling or premise of any kind on property where the discharge of firearms could take place. She stated she had some reservations about this issue, and she agreed with Mrs. Pouchot that the ordinance did not state where one could be standing on the property and allowed to discharge the firearm.

Mr. Barnett agreed the ordinance did not cover that issue, and he asked if the Board wished to table the proposed ordinance so that he might come up with more appropriate language.

Mr. Burgett felt the Board needed to look at the agricultural areas where crops were actually grown, stating that deer created a problem for them. He stated he felt the Board needed to be sure it wasn't just any piece of vacant land that was zoned for rural conservation.

Discussion followed regarding the areas of the County which might be affected by the ordinance.

Chairman Zaremba recommended to Mr. Barnett that a color-coded map be prepared to let the Board know specifically what parts of the County would be affected by the ordinance.

Ms. Noll then moved to table consideration of proposed Ordinance 00-8:

On roll call the vote was:

Yea: (5) Wiggins, Burgett, Rapp, Noll, Wiggins
Nay: (0)

YORK COUNTY CODE AMENDMENT: FOOD AND BEVERAGE TAX.

Mr. Barnett made a presentation on proposed Ordinance 00-9 to amend the York County Code pertaining to the County's tax on prepared food and beverages, to amend the definition of "food," to incorporate changes required by legislation adopted by the 1999 and 2000 Virginia General Assemblies, and to make various other amendments.

Chairman Zaremba called to order a public hearing on proposed Ordinance No. 00-9 that was duly advertised as required by law and is entitled:

AN ORDINANCE TO AMEND SECTIONS 21-150, 21-151, AND 21-163, YORK COUNTY CODE, PERTAINING TO THE COUNTY'S TAX ON PREPARED FOOD AND BEVERAGES, TO AMEND THE DEFINITION OF "FOOD," TO INCORPORATE CHANGES REQUIRED BY LEGISLATION ADOPTED BY THE 1999 AND 2000 VIRGINIA GENERAL ASSEMBLIES, AND TO MAKE VARIOUS OTHER AMENDMENTS

There being no one present who wished to speak concerning the subject ordinance, Chairman Zaremba closed the public hearing.

Mrs. Thomas defined the classifications of prepared food, beverages, and single servings

Ms. Noll then moved the adoption of proposed Ordinance 00-9 that reads:

AN ORDINANCE TO AMEND SECTIONS 21-150, 21-151, AND 21-163, YORK COUNTY CODE, PERTAINING TO THE COUNTY'S TAX ON PREPARED FOOD AND BEVERAGES, TO AMEND THE DEFINITION OF "FOOD," TO INCORPORATE CHANGES REQUIRED BY LEGISLATION ADOPTED BY THE 1999 AND 2000 VIRGINIA GENERAL ASSEMBLIES, AND TO MAKE VARIOUS OTHER AMENDMENTS

BE IT ORDAINED by the York County Board of Supervisors, this 20th day of June, 2000, that sections 21-150, 21-151, and 21-163, York County Code, be and they are hereby amended to read and provide as follows:

Sec. 21-150. Definitions.

The following words and phrases, when used in this article, shall have, for the purposes of this article, the following respective meanings except where the context clearly indicates a different meaning:

Caterer. A person who furnishes food on the premises of another for compensation.

Commissioner of the revenue. The Commission of the Revenue of the County of York, Virginia, and any of his duly authorized deputies, assistants, employees or agents.

Food. Any and all edible refreshments or nourishment, liquid or otherwise, including alcoholic beverages as defined in section 4.1-100, Code of Virginia, and non alcoholic beverages served as part of a meal, purchased in or from a restaurant or from a caterer, whether or not prepared in such restaurant or by such caterer, and whether or not consumed on the premises of such restaurant or caterer, and without regard to the manner, time, or place of service. The term shall not include "food" as defined in the federal Food Stamp Act of 1977 (7 U.S.C. §2012, as it may be amended from time to time), except that the term shall include sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and non-factory sealed beverages.

Person. Any individual, corporation, company, association, firm, partnership or any group of individuals acting as a unit.

Purchaser. Any person who purchases food in or from a restaurant or from a caterer.

Restaurant.

- (a) Any place where food is prepared for service to the public whether on or off the premises;
- (b) Any place where food is served to the public; or
- (c) Any place or operation which prepares or stores food for distribution to person of the same business operation or of a related business operation for service to the public.

Examples include: dining room, grill, coffee shop, cafeteria, cafe, snack bar, lunch counter, lunchroom, short order place, tavern, delicatessen, confectionery, bakery, eating house, eatery, drugstore, catering service, lunch wagon or truck, pushcart or other mobile facility that sells food, dining facility in a public or private club, resort, bar or lounge, kitchen facility of a hospital or nursing home, and dining facility of a public or private school or college.

Seller. Any person who sells food in or from a restaurant or as a caterer.

Snack food. Chewing gum, candy, popcorn, peanuts and other nuts, and unopened prepackaged cookies, donuts, crackers, potato chips and other items of essentially the same nature and consumed for essentially the same purpose.

Treasurer. The Treasurer of the County of York and any of his duly authorized deputies, assistants, employees or agents.

Sec. 21-151. Levy of tax; amount.

In addition to all other taxes and fees of any kind now or hereafter imposed by law, a tax is hereby levied and imposed on the purchaser of all food served, sold or delivered for human consumption in the county in or from a restaurant, whether prepared in such restaurant or not and whether consumed on the premises or not, or prepared by a caterer. The rate of this tax shall be four percent (4%) of the amount paid for such food. In the computation of this tax, any fraction of one-half cent (\$0.005) or more shall be treated as one cent (\$0.01).

* * *

Sec. 21-163. Exemptions.

The following purchases of food shall not be subject to the tax under this article:

- (a) Food furnished by restaurants to employees as part of their compensation when no charge is made to the employee;
- (b) Food sold by nonprofit day care centers, public or private elementary or secondary schools or food sold by any college or university to its students or employees;
- (c) Food for use or consumption and which are paid for directly by the Commonwealth, any political subdivision of the Commonwealth or the United States;
- (d) Food furnished by a hospital, medical clinic, convalescent home, nursing home,

home for the aged, infirm, handicapped, battered women, narcotic addicts or alcoholics, or other extended care facility to patients or residents thereof;

- (e) Food and beverages furnished by a public or private nonprofit charitable organization or establishment or a private establishment that contracts with the appropriate agency of the Commonwealth to offer meals at concession prices to elderly, infirm, blind, handicapped or needy persons in their homes or at central locations;
- (f) Food sold by a nonprofit education, charitable or benevolent organization on an occasional basis as a fund-raising activity or food sold by a church or religious body on an occasional basis where the gross proceeds of such sale are to be used exclusively for non-profit educational, charitable, benevolent or religious purposes;
- (g) Food furnished by boarding houses that do not accommodate transients;
- (h) Food sold by cafeterias operated by industrial plants for employees only;
- (i) Food sold by nonprofit cafeterias in public schools, nursing homes and hospitals;
- (j) Food sold by churches, fraternal and social organizations and volunteer fire departments and reserve squads which hold occasional dinners and bazaars of one or two day duration as a fund-raising activity, at which food prepared in the homes of members or in the kitchen of the organization is offered for sale to the public;
- (k) Food furnished by churches which serve meals for their members as a regular part of their religious observance;
- (l) Food sold through vending machines;
- (m) Food sold by grocery stores and convenience stores, except for prepared food ready for human consumption sold at a delicatessen counter or in a section designated for the sale of prepared food and beverages;
- (n) Alcoholic beverages sold in factory sealed containers and purchased for off-premises consumption;
- (o) Snack foods not served as part of a meal;
- (p) Any other sale of food which is exempt from taxation under the Virginia Retail Sales and Use Tax Act, or administrative rules and regulation issued pursuant thereto.

BE IT FURTHER ORDAINED that this ordinance shall take effect July 1, 2000.

On roll call the vote was:

Yea: (5) Burgett, Rapp, Noll, Wiggins, Zaremba
Nay: (0)

Mr. Stuck made a presentation on proposed Resolution No. R00-79 to authorize the County administrator to execute a Lease Agreement with Child Development Resources, Inc., for the operation of an early childhood care and development service in the Griffin-Yeates Center.

Chairman Zaremba called to order a public hearing on proposed Resolution R00-79 that was duly advertised as required by law and is entitled:

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO EXECUTE A LEASE AGREEMENT WITH CHILD DEVELOPMENT RESOURCES, INC., A NONPROFIT VIRGINIA CORPORATION, FOR THE OPERATION OF AN EARLY CHILDHOOD CARE AND DEVELOPMENTAL SERVICE IN THE GRIFFIN-YEATES BUILDING LOCATED ON GOVERNMENT ROAD

There being no one present who wished to speak concerning the subject resolution, Chairman Zaremba closed the public hearing.

Chairman Zaremba asked Mrs. Smith about the waiting list of children who couldn't get into the program because there wasn't adequate space.

Mrs. Smith stated staff was always working on that problem. The issue was to try and figure out how to use existing resources, both cash and space, to serve a larger number of children. She reported that staff was working to make some adjustments to the Head Start Program that might result in opening some slots for additional children from the waiting list in either First Steps or Head Start. She reported that a pilot for a full-day, full-year Head Start Program was being worked on, which would provide a larger number of slots and greater service without having any local budgetary impact.

Mr. Burgett then moved the adoption of proposed Resolution R00-79 that reads:

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO EXECUTE A LEASE AGREEMENT WITH CHILD DEVELOPMENT RESOURCES, INC., A NONPROFIT VIRGINIA CORPORATION, FOR THE OPERATION OF AN EARLY CHILDHOOD CARE AND DEVELOPMENTAL SERVICE IN THE GRIFFIN-YEATES BUILDING LOCATED ON GOVERNMENT ROAD

WHEREAS, it is in the public interest to continue to make available an early childhood educational experience and positive learning opportunities on behalf of economically disadvantaged and other qualified County citizens; and

WHEREAS, Child Development Resources, Inc., a nonprofit Virginia corporation, has provided such services by operation of a program, called First Steps; and

WHEREAS, the County desires to lease approximately 2,500 square feet of classroom and office space identified as Tenant Rooms 10, 12, 13, and 15, within the Griffin-Yeates Building located at 1490 Government Road, which is a building owned by the County of York, by the execution of a lease agreement for a term of one year; and

WHEREAS, a public hearing on the proposed lease agreement, as required under the Code of Virginia, has been properly advertised and conducted on June 20, 2000;

June 20, 2000

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 20th day of June, 2000, that the County Administrator be, and he is hereby, authorized to execute a lease agreement with Child Development Resources, Inc., for the operation of the First Steps program for the term July 1, 2000, until June 30, 2001; such agreement to provide the lease of approximately twenty-five hundred (2,500) square feet identified as Tenant Rooms 10, 12, 13, and 15, Griffin-Yeates Building, along with the right to use certain common areas of the building and grounds, for a term of one year and in consideration of the sum of one dollar (\$1.00), and to be approved by the County Attorney.

On roll call the vote was:

Yea: (5) Rapp, Noll, Wiggins, Burgett, Zaremba
Nay: (0)

APPLICATION NO. UP-556-00, PENINSULA HARDWOOD MULCH, INC.

Mr. Baldwin Chief Planner, after an introductory video, made a presentation on Application No. UP-556-00 which requests a use permit to authorize the expansion of a nonconforming use located at 715 Lakeside Drive (Route 620). The Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of approval, and staff recommended approval of the application through the adoption of proposed Resolution R00-87.

Chairman Zaremba called to order a public hearing on Application No. UP-556-00 that was duly advertised as required by law. Proposed Resolution R00-87 is entitled:

A RESOLUTION TO APPROVE APPLICATION NO. UP-556-00
WHICH REQUESTS A USE PERMIT TO AUTHORIZE THE EXPAN-
SION OF A NONCONFORMING USE LOCATED AT 715 LAKESIDE
DRIVE (ROUTE 620)

Ms. Kara Haigler, 105 Middlewood Lane, spoke against the Application and asked the Board to deny the request. She was concerned with the current noise level in the neighborhood and the potential for additional noise if the request was approved. She further stated she was concerned with the chemicals that would be used in the mulch processing procedure.

Mr. Emmitt Short, 107 Lake Point Place, a resident of the neighborhood for 15 years as well as operator of a business on Route 17 at the corner of Lakeside Drive and Route 17, stated he was aware of the landfill and the airport when he moved into Winders Pond, and he wasn't bothered by these things. He stated he enjoyed being a neighbor of Peninsula Hardwood Mulch.

Mr. Bob Legere, 120 Winders Lane, representing Winders Pond Homeowners Association, asked the individuals present who were opposed to the application to stand and be recognized. He stated the business was in the middle of five residential areas composed of hundreds of families, and quality of life issues such as noise, potential air pollution, and traffic from commercial and residential vehicles were affected. Property values were also affected. He stated he didn't feel enough study had taken place on which to make a decision at this time, and he urged the Board to deny the application.

Mr. Richard Cervi, 210 Jacobs Run, president of the Jacobs Springs Homeowners Association, stated Jacobs Springs' major concern was the dust issue. The noise issue was a concern, but the Lafayette Gun Club was something the Association also had to deal with. He stated it looked to

him like the conditions set by the County were met. Mr. Cervi indicated the Association has confidence that Peninsula Hardwood Mulch will do the right thing.

Mr. Scott Reichle, attorney representing the applicant, explained the operation of the nursery and the mulching plant, providing some history on the operation of the business. He addressed the environmental concerns, stating the owner had no desire to manufacture fertilizer, and it was a purely organic operation. He addressed some of the citizen concerns such as traffic increases, dust control, noise control, and the stormwater management plan, and he asked the Board to keep in mind that it was a non-conforming use and has been in its location for a long time.

Mr. Larry Wilson, 403 Ship Point Road, the applicant, stated he had been at the present location approved by a previous Board in 1991, and he recently had heard a lot of complaints and concerns which he hadn't heard until he wanted to do the expansion. He stated he tried to be a good neighbor to the nearby residents.

Mr. Frank Reed, 123 Winders Lane, spoke against the application and asked the Board to deny the applicant's request. He stated procedures were only as good as the people who enforced them. He stated he had heard several recommendations tonight but had not heard when the recommendations or procedures would be implemented and how they would be implemented and enforced. He asked how the County would make sure that the impact of the hammermill would not have a negative impact on the surrounding communities.

Mr. Wes Wagner, resident of Winders Pond, objected to the loud noise from the mulching plant. He stated the citizens were depending on the County to make the right decision to protect them. It appeared that there had been no monitoring at this site, and he couldn't understand how a business of that nature had no monitoring for environmental issues. He stated he understood that the owner wanted to make money, but the residents just wanted to live there in peace. He requested that the County consider assigning some kind of task force to monitor the current operation.

There being no one else present who wished to speak concerning the subject application, Chairman Zaremba closed the public hearing.

Mr. Burgett questioned staff about the original application for a special use permit, stating it was approved with the condition that the applicant would control sound and dust around his soil and screening operations. He asked why the applicant wasn't now complying with those conditions.

Mr. Baldwin explained that the existing soil screening was not subject to the existing use permit. The grandfathered, non-conforming use area subject to the use permit was the nursery towards the front of the property, not the soil screening in the back.

Mr. Burgett stated it said in the documents provided to the Board that as a condition of the use permit the applicant would build a berm and take steps to mitigate the noise, but this had not been done. He stated he did not think the first use permit's problems would be taken care of if the Board approved another non-conforming use on a grandfathered non-conforming use.

Mr. Baldwin stated that in a situation such as this the existing non-conforming use was not subject to any conditions of the existing use permit. When the applicant requested an expansion of the non-conforming use, which was basically to add the mulch operation, it gave the County the opportunity not only to address what he was requesting, but also to address the existing non-

June 20, 2000

conforming use which was part of this application. He stated those conditions would be able to be applied to the existing use.

Mr. Burgett indicated what Mr. Baldwin was stating was contrary to what was included in the staff documentation on the application.

Mr. Baldwin stated it was his understanding from the Zoning Administrator that those conditions could not be fully applied to this non-conforming use of soil screening operations. The soil screening operation to the rear of the property was not subject to the same type of conditions as proposed with the current request.

Mr. Burgett stated that based on past performance of the applicant, he would not bet that the new set of conditions would be followed. He stated if the non-conforming use was taken out of the soil screening and manufacturing operation, the application would never have been considered for approval within the resource conservation district. The area in question was basically residential. Mr. Burgett noted he had visited with Mr. Wilson, and the business was fine and very successful; but if the Board felt the combined intensity of the mulching processing equipment and the existing soil screening activity was too much for the surrounding community to bear, it should be denied.

Miss Rapp asked Mr. Baldwin the schedule of events for implementing the use permit.

Mr. Baldwin stated the first thing needed to be done was the condition concerning the landscaping because it took time for landscaped materials on the berm to grow. Staff felt that the berm should be something that should start immediately before the applicant moved anything over to the site and started processing. The other requirements for preparing dust suppression and stormwater management plans would be a part of the site plan process. As part of the construction, the applicant would be required to move the hammermill operation if it were required in order to implement the findings of the studies. If the Board was not comfortable with the current language, he stated a condition could be added to specify that all these things must be implemented prior to any mulch operation on site.

Miss Rapp asked who would enforce the permit.

Mr. Baldwin stated the County would be the primary enforcement agency, but it was very difficult to enforce dust and noise requirements which was why staff was requiring a study be done to establish a dust suppression plan and a professional noise study to establish measurable levels. He stated that staff tried to be as specific as it could so that there would be enforceable conditions.

Miss Rapp asked about soundproofing.

Mr. Baldwin stated staff looked at two issues on that subject; one was whether or not there should be a condition to require the applicant to enclose all this in some sort of a larger building or whether he should be required to enclose the part of equipment that made the primary amount of noise. He expressed concern that when there was a non-conforming use, staff did not want to encourage the construction of industrial buildings on site to become more permanent, so staff had tried to address the noise suppression issue without requiring the construction of industrial buildings. Mr. Baldwin stated the hope was that ultimately the property would be used for something that was more appropriate and long-term than the current non-conforming use.

Mrs. Noll asked how noise suppression could be accomplished.

Mr. Baldwin indicated the applicant would have to design some sort of enclosure that would enclose the noisiest part of the equipment. He explained that a noise study based on the current operation would be required, and an upper limit would be established so when the new piece of equipment was brought in, the noise level would be measured, and it could not exceed the current condition.

Mrs. Noll asked what would happen if the noise level were exceeded.

Mr. Baldwin stated the applicant would be in violation, and measures would have to be taken to bring the noise under control. If he could not comply with the standards, he would be in violation of the use permit.

Mrs. Noll asked if a professional was going to be hired for an objective assessment.

Mr. Baldwin stated the applicant would be required to hire a professional who was acceptable to the County.

Mrs. Noll asked about any change in the hours of operation.

Mr. Baldwin stated the soil screening operation had no restriction on its hours of operation under the non-conforming status. Staff proposed a condition that would restrict the hours of operation. He stated the applicant normally did not operate the soil screening operation on Sunday, and there would be a condition that stated no future operator who might buy the business could come in and decide to operate at night or on Sundays.

Mrs. Noll stated she would like a condition prohibiting either operation on weekends as well.

Mr. Baldwin noted that because of weather conditions and trying to work with this particular kind of material, the applicant might need to operate on a weekend if he got days of rain that would keep him from operating the soil screening operation.

Mrs. Noll suggested the applicant could do things on a sunny day that he would normally do on a rainy day if he had to rather than work weekends.

Mr. Wiggins spoke concerning the original use permit conditions, noting his confusion because there were conditions contained in the current permit to control the dust and noise.

Mr. Baldwin indicated the conditions Mr. Wiggins referred to did not apply to the rear of the property; they applied to the landscape business operation. He noted there were some conditions that were intended to do some screening, but they did not apply directly to the operation of this non-conforming use.

Mr. Stuck stated his reading of the staff memorandum indicated there were certain conditions that earlier were applied to the landscaping business that were also applied to the soil operation, but that was not what Mr. Baldwin was now saying. He asked Mr. Baldwin to explain.

Mr. Baldwin stated the point was that there were some operations going on in the non-conforming use section that, by virtue of some of these conditions, were indirectly addressed. In other words, establishing the berm would screen the site to a point, which was a condition of the nursery/landscaping operation use permit. He stated it also had some benefits in mitigating the soil screening operation, but it was not directly related to the soil screening itself.

Mr. Stuck asked if there were any noise, dust, hours of operation, or truck traffic restrictions on the current screening operation.

Mr. Baldwin indicated there were none.

Mr. Stuck asked if there were any berming or landscaping requirements that applied to the current soil screening operation.

Mr. Baldwin stated there were none.

Mr. Stuck stated what was contained in his memorandum seemed to indicate that there were some of those restrictions involved here.

Mr. Baldwin indicated that was language used in 1991 to explain how the berm would mitigate some of the operations back then.

Mr. Stuck stated then that because the berm was there, somebody might not be able to see it who otherwise would see it.

Mr. Baldwin stated that was correct. He indicated the idea was that some of the conditions applied to the landscaping operation helped to screen what was going on behind it, but they didn't apply to it in a legal sense; they applied to the landscaping operation.

Mr. Stuck stated the only way to get dust, noise, traffic, or hours of operation control over the soil screening operation would be to grant the use permit for the mulch operation. If the Board did not grant the use permit, then there would be no restrictions on the soil operation.

Mr. Baldwin that was correct.

Mr. Wiggins stated the problem he had was that staff was more or less saying that if the applicant was to add something that would create more noise, he would have to take it out.

Mr. Baldwin noted that staff recognized that the piece of equipment was not silent, and that mulch processing equipment makes noise. Staff has tried to control the noise down to the level currently occurring on site, or putting noise controls on the piece of equipment so that it didn't further exacerbate the problem. He noted that at the Planning Commission meeting and other conversations held with residents, most concerns voiced were related to existing operation on the site. If the County did nothing, or if staff recommended denial and the application were to be denied by the Board, then all the complaints would continue because of the current set of circumstances. He stated the current proposal was the one way the County had to impose conditions, not only on the new proposal, but also on the existing operations.

Mr. Wiggins indicated he did not like the way staff went about this application, stating he would not agree to such a proposal if he were the applicant. Equipment cannot be added without creating noise, and once the applicant starts using it, there will be all kinds of complaints, and he will have to remove the equipment. He stated he did not understand any of staff's reasoning in this matter.

Chairman Zaremba asked what was the current zoning of the property and its approved uses.

Mr. Baldwin stated it was zoned resource conservation which was for low intensity uses.

Chairman Zaremba discussed the Comprehensive Plan being the blueprint for the County's economic and residential development and growth. He stated this operation was grandfathered and was a non-conforming use, and he asked Mr. Baldwin to explain the term "grandfathered."

Mr. Baldwin indicated the term meant the specific current use was not allowed under the current zoning designation; however, if there were an on-going operation when the zoning district changed, the use would not be required to shut down because of the change.

Chairman Zaremba asked if the operation was not currently there, and Mr. Wilson wanted to establish it today, would the Zoning Ordinance allow it.

Mr. Baldwin indicated it would not.

Chairman Zaremba stated the Board had before it an application for a special use permit to go beyond the non-conforming use already in place. The staff and the Planning Commission had recommended approval of the application based on certain conditions, and the discussion by the Board at this time has been how the County would enforce such conditions. He asked if there were any in-house capability to ensure compliance by the applicant.

Mr. Baldwin stated it was his understanding that the County could enforce the conditions. The Code Enforcement staff had reviewed the application and indicated that the permit could be enforced through established measurable standards.

Discussion followed concerning the planning staff's review of and investigation for the application and the citizen concerns and complaints that were subsequently revealed which led to the current conditions being recommended for the use permit.

Chairman Zaremba stated he had difficulty accepting that the County had adequate capability to enforce the use permit conditions in this case.

Mrs. Noll asked if the application was approved and the applicant later sold the property, would the non-conforming use be transferred with the property.

Mr. Baldwin explained the non-conforming use and the use permit would be transferred to the new owner; the use permit went with the property.

Mr. Wiggins reiterated his concern about the condition concerning noise and the impact it would have on the applicant.

Mr. Baldwin indicated the applicant wouldn't necessarily have to remove the equipment if he were found in violation; he could do something to mitigate the noise levels.

Mr. Burgett stated he had watched the Planning Commission meeting and the 14 citizens who requested that the application be denied, and he asked the Board to keep that fact in mind.

Mr. Reichle stated that after further discussion with Mr. Wilson, it was the request of the applicant that the application be withdrawn.

The Board accepted Mr. Reichle's request that the application be withdrawn.

INCREASE IN BOARD OF SUPERVISORS' SALARIES

Mr. Barnett made a brief presentation on proposed Ordinance No. 00-10 to establish the salaries of members of the York County Board of Supervisors at a sum not to exceed \$7,000 per year, plus an additional salary at a sum not to exceed \$1,800 for the Chairman and an additional sum not to exceed \$1,200 for the Vice Chairman, effective July 1, 2000, and proposed Resolution R00-104 to appropriate additional funds for the payment of salaries of the Board of Supervisors. A chart of salaries of Board of Supervisors in different localities was shown for comparison.

Chairman Zaremba called to order a public hearing on Ordinance 00-10, which was duly advertised as required by law and is entitled:

AN ORDINANCE TO ESTABLISH THE SALARIES OF MEMBERS OF
THE YORK COUNTY BOARD OF SUPERVISORS AT THE SUM OF
\$7,000.00 PER ANNUM, PLUS AN ADDITIONAL SALARY OF
\$1,800.00 FOR THE BOARD CHAIRMAN AND AN ADDITIONAL SUM
OF \$1,200.00 FOR THE BOARD VICE-CHAIRMAN, EFFECTIVE JULY
1, 2000

Mr. Brad Berrane, 215 Castellow Court, stated the job was difficult for the Board members in that they have a lot of duties to fill and functions to attend, and he felt the increase was justified, not just for themselves, but for future Board members as well.

There being no one else present who wished to speak regarding the subject ordinance, Chairman Zaremba closed the public hearing.

Mr. Wiggins stated he was fortunate that he didn't have to depend on his salary as a supervisor. He felt that more qualified candidates would run for office if there was an increase in the Supervisors' salaries. He stated he spent more money on his expenses than he made as a supervisor.

Mrs. Noll stated she felt there were always qualified candidates running for the Board of Supervisors. She indicated she did not feel the salaries of the Supervisors were the overlying factor in whether or not someone ran for office, and she didn't feel the money had anything to do with having qualified candidates. She stated the current Board knew what the salary was when they ran for office, and the salary should remain the same at this time. She further stated she wasn't opposed to an increase for a new Board, but she was opposed to making a change for the current Board.

Miss Rapp also did not agree that the current Board should have a raise during its term. She stated she also did not agree that the Vice Chairman should be paid any more money than the rest of the Board members. She said they all basically did the same thing. She did note that she felt the Chair deserved extra compensation but felt the four other members should receive the same pay.

Mr. Burgett stated in 1987 the salary was increased to \$4,800, which was 13 years ago. With average inflation of 3 percent per year for 13 years, the salaries that were being proposed today would amount to approximately \$7,000. He stated the job should at least pay a part of expenses, and he felt the increase was a very reasonable thing to do.

Chairman Zaremba stated he also felt the Board deserved a raise, and he reiterated that the Board hadn't had a raise since 1987. He stated that many other localities had higher salaries,

and he agreed with Mr. Wiggins' and Mr. Burgett's statements with respect to qualified people coming forward to run for office.

Mr. Burgett then moved the adoption of proposed Ordinance No. 00-10 that reads:

AN ORDINANCE TO ESTABLISH THE SALARIES OF MEMBERS OF THE YORK COUNTY BOARD OF SUPERVISORS AT THE SUM OF \$7,000.00 PER ANNUM, PLUS AN ADDITIONAL SALARY OF \$1,800.00 FOR THE BOARD CHAIRMAN AND AN ADDITIONAL SUM OF \$1,200.00 FOR THE BOARD VICE-CHAIRMAN, EFFECTIVE JULY 1, 2000

BE IT ORDAINED by the York County Board of Supervisors this 20th day of June, 2000, that the salaries of members of the York County Board of Supervisors be established at the sum of \$7,000.00 per annum, plus an additional sum of \$1,800.00 for the Board Chairman and an additional sum of \$1,200.00 for the Board Vice-Chairman, effective July 1, 2000

Yea: (3) Wiggins, Burgett, Zaremba
Nay: (2) Noll, Rapp

APPROPRIATION OF FUNDS FOR THE PAYMENT OF BOARD OF SUPERVISORS' SALARIES

Mr. Barnett explained the purpose of proposed Resolution R00-104 was to appropriate funds for the payment of salaries to members of the Board of Supervisors.

Mr. Wiggins moved the adoption of proposed Resolution R00-104 which reads:

A RESOLUTION TO APPROPRIATE FUNDS FOR THE PAYMENT OF SALARIES TO MEMBERS OF THE BOARD OF SUPERVISORS

WHEREAS, through the adoption of Ordinance No. 00-10, the salaries of the members of the Board of Supervisors were increased from \$4,800 to \$7,000; the salary of the Board Chairman was increased from \$5,300 to \$8,800; and the salary of the Board Vice-Chairman was increased from \$4,800 to \$8,200, effective on July 1, 2000; and

WHEREAS, the appropriations approved for Fiscal Year 2001 were based on the lower amount and in order to provide sufficient funding for the new salaries it is necessary to appropriate additional funds;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 20th day of June, 2000, that additional funding of \$13,500 be, and hereby is, appropriated in the General Fund for the purpose referenced above.

On roll call the vote was:

Yea: (3) Wiggins, Burgett, Zaremba
Nay: (2) Rapp, Noll

NEW BUSINESS

June 20, 2000

AMENDMENT TO THE ZONING ORDINANCE: RETAIL USES AND SHOPPING CENTERS (Not on Agenda)

Mr. Stuck explained the purpose of proposed Resolution R00-107 was to sponsor an application to amend Chapter 24.1, Zoning, of the York County Code to require a special use permit for retail uses and shopping centers with 80,000 or ore square feet of gross floor area.

Mrs. Noll moved the adoption of proposed Resolution R00-107 that reads:

A RESOLUTION TO SPONSOR AN APPLICATION TO AMEND CHAPTER 24.1, ZONING, OF THE YORK COUNTY CODE TO REQUIRE A SPECIAL USE PERMIT FOR RETAIL USES AND SHOPPING CENTERS WITH 80,000 OR MORE SQUARE FEET OF GROSS FLOOR AREA

WHEREAS, very large-scale retail developments, commonly known as “big box” developments, are becoming increasingly prevalent both in Hampton Roads and nationwide; and

WHEREAS, the impacts of such developments on surrounding properties and on the communities in which they are located are typically much more severe than the impacts of smaller development projects; and

WHEREAS, the York County Zoning Ordinance does not differentiate among retail uses on the basis of their size and scale; and

WHEREAS, the Board of Supervisors believes that considering appropriate standards for large retail uses would be consistent with good zoning practice and the protection of the general welfare of the community;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 20th day of June, 2000, that it does hereby sponsor Application No. ZT-49-00 to amend Chapter 24.1, Zoning, of the York County Code to require a special use permit for all retail uses and shopping centers having 80,000 or more square feet of gross floor area.

On roll call the vote was:

Yea: (5) Burgett, Rapp, Noll, Wiggins, Zaremba
Nay: (0)

CLOSED MEETING. At 10:27 p.m. Mr. Burgett moved that the meeting be convened in Closed Meeting pursuant to Section 2.1-344(a)(1) of the Code of Virginia pertaining to appointments to Boards and Commissions and pertaining to the salary of an employee.

On roll call the vote was:

Yea: (5) Rapp, Noll, Wiggins, Burgett, Zaremba
Nay: (0)

Meeting Reconvened. At 11:02 p.m. the meeting was reconvened in open session by order of the Chair.

Mrs. Noll moved the adoption of proposed Resolution SR-1 that reads:

A RESOLUTION TO CERTIFY COMPLIANCE WITH THE FREEDOM OF
INFORMATION ACT REGARDING MEETING IN CLOSED SESSION

WHEREAS, the York County Board of Supervisors has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.1-344.1 of the Code of Virginia requires a certification by the York County Board of Supervisors that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 20th day of June, 2000, hereby certifies that, to the best of each member's knowledge, (1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (2) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed, or considered by the York County Board of Supervisors.

On roll call the vote was:

Yea: (5) Noll, Wiggins, Burgett, Rapp, Zaremba
Nay: (0)

APPOINTMENT TO THE COLONIAL SERVICES BOARD

Mr. Burgett moved the adoption of proposed Resolution R00-82 that reads:

A RESOLUTION TO APPOINT THREE YORK COUNTY REPRESENTA-
TIVES TO THE COLONIAL SERVICES BOARD

BE IT RESOLVED by the York County Board of Supervisors this 20th day of June, 2000, that Everett D. Allaman, Jerry P. Coffman and Barrent M. Henry be, and they are hereby, reappointed as representatives to the Colonial Services Board for a term of three years, such terms to begin July 1, 2000, and expire June 30, 2003.

On roll call the vote was:

Yea: (5) Wiggins, Burgett, Rapp, Noll, Zaremba
Nay: (0)

APPOINTMENT TO THE YORK COUNTY PLANNING COMMISSION

Mr. Wiggins moved the adoption of proposed Resolution R00-83 that reads:

A RESOLUTION TO APPOINT MEMBERS TO THE YORK COUNTY
PLANNING COMMISSION

June 20, 2000

WHEREAS, the terms of Paul W. Garman of Election District 3 and Vernard E. Lockwood II of Election District 5 on the York County Planning Commission will expire June 30, 2000; and

WHEREAS, both Messrs. Garman and Lockwood are eligible for reappointment, and both have requested to be reappointed;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 20th day of June, 2000, that the following appointments are made to the York County Planning Commission, such appointments to commence July 1, 2000 and expire June 30, 2004:

Robert D. Heavner	District 3
Thomas G. Shepperd	District 5

On roll call the vote was:

Yea:	(5)	Burgett, Rapp, Noll, Wiggins, Zaremba
Nay:	(0)	

ORGANIZATION OF THE INDUSTRIAL DEVELOPMENT STAFF (Not on Agenda)

The Board briefly discussed the organizational structure for the County's economic development effort.

Meeting Adjourned. At 11:35 p.m. Chairman Zaremba declared the meeting adjourned to 8:00 a.m., Saturday, June 24, 2000, in the East Room, York Hall, for the purpose of conducting a retreat with the Industrial Development Authority.

Daniel M. Stuck, Clerk
York County Board of Supervisors

Walter C. Zaremba, Chairman
York County Board of Supervisors